

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO. 04-10390-MLW

MATTHEW COBB, ESQ.,

Plaintiff,

v.

THE SUPREME JUDICIAL COURT OF
THE COMMONWEALTH OF
MASSACHUSETTS,

Defendants.

PRELIMINARY INJUNCTION OPPOSITION

Plaintiff, Matthew Cobb, who is an attorney, is the subject of an ongoing bar disciplinary proceeding, which is pending before a Single Justice of the Massachusetts Supreme Judicial Court for Suffolk County (“Single Justice”). Plaintiff has filed an action in this Court under 42 U.S.C. § 1983, alleging that the bar disciplinary proceeding has deprived him of his rights under the First and Fourteenth Amendments of the United States Constitution. (Verified Complaint at 19.) He now seeks an order of this Court preliminary enjoining a “hearing of May 6, 2004 before a Single Justice of the [Supreme Judicial Court of Massachusetts]” and “barring any SJC action on any complaint now pending against Cobb.” (Verified Complaint at 20.) This Court should deny the Motion for the reason set forth in the Motion to Dismiss and Supporting Memorandum—namely Younger abstention—and because Plaintiff can make no showing of a threat of irreparable harm.

As Plaintiff acknowledges he is licensed to practice law in Massachusetts pending the final resolution of the bar disciplinary proceeding. (Verified Compl. ¶ 11.) Hence, his claimed

harm of “disbarment,” (Plaintiff’s Verified Brief at 10), is merely speculative and not imminent given that he still has the opportunity for judicial review of the BBO’s decision before the Single Justice and the full Court. Additionally, as set forth in the Motion to Dismiss and Supporting Memorandum, if properly raised and reserved, Plaintiff can press all of his federal law claims, which he is attempting to raise in this action, in the state court action. Any adverse decision by the Supreme Judicial Court on the federal law claims may then be appealed by Plaintiff to the United States Supreme Court via a writ of certiorari. Supreme Court Rule 10. Accordingly, this Court should deny the Motion.

Respectfully submitted,

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/s/

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